

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CAMBRIDGE TAXI DRIVERS AND
OWNERS ASSOCIATION, INC.,
Plaintiff

v.

CITY OF CAMBRIDGE,
MASSACHUSETTS, NICOLE MURATI
FERRER, CHAIR OF THE CAMBRIDGE
LICENSE COMMISSION, E. DENISE
SIMMONS, MAYOR OF CAMBRIDGE,
CHRISTOPHER BURKE, CAMBRIDGE
POLICE COMMISSIONER, and RICHARD
C. ROSSI, CITY MANAGER,

Defendants

Civil Action No. 16-cv-11357-NMG

DEFENDANTS' MOTION TO DISMISS

Now come the Defendants City of Cambridge, Nicole Murati Ferrer, Chair of the Cambridge License Commission, E. Denise Simmons, Mayor of Cambridge, Christopher Burke, Cambridge Police Commissioner, and Richard C. Rossi, City Manager (collectively, the "Defendants") and move this Honorable Court to dismiss, pursuant to F.R.C.P Rule 12(b)(6), the Plaintiff's Complaint for failure to state a claim upon which relief may be granted.

As grounds therefor, the Defendant states Plaintiff's Complaint contains five counts, only two of which are substantive claims for relief – Count IV, alleging a violation of the Constitution's Takings Clause, and Count VI, alleging a violation of the 14th Amendment's Due Process and Equal Protection Clauses.¹ However, inasmuch as the Plaintiff seeks prospective relief, that relief has been preempted by recent state legislation that prohibits the very type of municipal regulation whose absence the Plaintiff alleges as the basis for its causes of action.

¹ As described in more detail below, Counts I, II and III are prayers for relief, not independent causes of action, and the Complaint contains no Count V.

Moreover, the Plaintiff has not – and cannot – demonstrate the necessary elements of its claims. Defendants incorporate herein their Memorandum of Law in Support of Defendants' Motion to Dismiss, filed herewith.

Wherefore, the Defendants respectfully request that this instant Motion be granted, that the Plaintiff's Complaint be dismissed with prejudice, and that this Court grant such other relief as justice may require.

Respectfully submitted,

CITY OF CAMBRIDGE, MASSACHUSETTS,
NICOLE MURATI FERRER, CHAIR OF THE
CAMBRIDGE LICENSE COMMISSION, E.
DENISE SIMMONS, MAYOR OF CAMBRIDGE,
CHRISTOPHER BURKE, CAMBRIDGE POLICE
COMMISSIONER, and RICHARD C. ROSSI,
CITY MANAGER

By their attorney,

/s/ Anne Sterman
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(617) 349-4121
asterman@cambridgema.gov

DATED: August 16, 2016

CERTIFICATION UNDER LOCAL RULE 7.1

I hereby certify, pursuant to Local Rule 7.1(A)(2), that I conferred with counsel for the Plaintiff regarding the instant motion, and was unable to resolve the issues presented therein.

/s/ Anne Sterman
Anne Sterman
Assistant City Solicitor

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on August 16, 2016.

/s/ Anne Sterman
Anne Sterman
Assistant City Solicitor